

Board Administration and Regulatory Coordination Unit

Division 3. Air Resources Board

Chapter 1. Motor Vehicle Pollution Control Devices

Article 6. Emission Control System Warranty

§ 2037. Defects Warranty Requirements for 1990 and Subsequent Model Passenger Cars, Light-Duty Trucks, Medium-Duty Vehicles, and Motor Vehicle Engines Used in Such Vehicles.

(a) Applicability.

This section shall apply to 1990 and subsequent model passenger cars, light-duty trucks, medium-duty vehicles, and motor vehicle engines used in such vehicles. The warranty period shall begin on the date the vehicle is delivered to an ultimate purchaser, or if the vehicle is first placed in service as a “demonstrator” or “company” car prior to delivery, on the date it is first placed in service.

(b) General Emissions Warranty Coverage.

The manufacturer of each motor vehicle or motor vehicle engine shall warrant to the ultimate purchaser and each subsequent purchaser that the vehicle or engine is:

(1) Designed, built, and equipped so as to conform with all applicable regulations adopted by the Air Resources Board pursuant to its authority in chapters 1 and 2, part 5, division 26 of the Health and Safety Code; and

(2) Free from defects in materials and workmanship which cause the failure of a warranted part to be identical in all material respects to the part as described in the vehicle or engine manufacturer's application for certification, including any defect in materials or workmanship which would cause the vehicle's on-board diagnostic malfunction indicator to illuminate, for a period of three years or 50,000 miles, whichever first occurs; and

(3) Free from defects in materials and workmanship which cause the failure of a warranted part described in subsection (c) below for seven years or 70,000 miles, whichever first occurs.

(c) Each manufacturer shall identify in its application for certification the “high-priced” warranted parts which [i] are included on the Board's “Emissions Warranty Parts List” as last amended February 22, 1985, incorporated herein by reference, and [ii] have an individual replacement cost, at the time of certification, exceeding the cost limit defined in subsection (1). The replacement cost shall include the cost of the part, labor, and standard diagnosis. The costs shall be those of the highest-cost metropolitan area of California.

(1) The cost limit shall be calculated using the following equation:

$$\text{Cost limit}_n = \$300 \times (\text{CPI}_{n-2} / 118.3)$$

where:

Cost limit_n is the cost limit for the applicable model year of the vehicle rounded to the nearest ten dollars.

n is the model year of the new vehicles.

n-2 is the calendar year two years prior to the model year of the new vehicles.

CPI is the annual average nationwide urban consumer price index published by the United States Bureau of Labor Statistics.

(2) The cost limit shall be revised annually by the Executive Officer. The highest-cost metropolitan area in California shall be identified by the Executive Officer for use in this subsection. If a manufacturer seeks certification of a vehicle before the applicable annual average CPI is available, the cost limit shall be calculated using the average of the monthly nationwide urban CPI figures for the most recent twelve month period for which figures have been published by the United States Bureau of Labor Statistics.

(3) Each manufacturer shall submit to the Executive Officer the documentation used to identify the “high-priced” warranted parts required in this subsection. The documentation shall include the estimated retail parts costs, labor rates in dollars per hour, and the labor hours necessary to replace the parts. The documentation is not required for vehicles certified before January 24, 1991.

(d) Subject to the conditions and exclusions of subsection (i), the warranty on emissions-related parts shall be interpreted as follows:

(1) Any warranted part which is not scheduled for replacement as required maintenance in the written instructions required by subsection (e) shall be warranted for the warranty period defined in subsection (b)(2) or (3). If any such part fails during the period of warranty coverage, it shall be repaired or replaced by the vehicle or engine manufacturer according to subsection (4) below. Any such part repaired or replaced under the warranty shall be warranted for the remaining warranty period.

(2) Any warranted part which is scheduled only for regular inspection in the written instructions required by subsection (e) shall be warranted for the warranty period defined in subsection (b)(2) or (3). A statement in such

Division 3. Air Resources Board

Chapter 1. Motor Vehicle Pollution Control Devices

Article 6. Emission Control System Warranty

written instructions to the effect of “repair or replace as necessary” shall not reduce the period of warranty coverage. Any such part required or replaced under warranty shall be warranted for the remaining warranty period.

(3) Any warranted part which is scheduled for replacement as required maintenance in the written instructions required by subsection (3) shall be warranted for the period of time or mileage, whichever first occurs, prior to the first scheduled replacement point for that part. If the part fails prior to the first scheduled replacement, the part shall be repaired or replaced by the vehicle or engine manufacturer according to subsection (4) below. Any such part required or replaced under warranty shall be warranted for the remainder of the period prior to the first scheduled replacement point for the part.

(4) Repair or replacement of any warranted part under the warranty provisions of this article shall be performed at no charge to the vehicle or engine owner at a warranty station, except in the case of an emergency when a warranted part or a warranty station is not reasonably available to the vehicle or engine owner. In an emergency, repairs may be performed at any available service establishment, or by the owner, using any replacement part. The manufacturer shall reimburse the owner for his or her expenses including diagnostic charges for such emergency repair or replacement, not to exceed the manufacturer's suggested retail price for all warranted parts replaced and labor charges based on the manufacturer's recommended time allowance for the warranty repair and the geographically appropriate hourly labor rate. A vehicle or engine owner may reasonably be required to keep receipts and failed parts in order to receive compensation for warranted repairs reimbursable due to an emergency, provided the manufacturer's written instructions advise the owner of this obligation.

(5) Notwithstanding the provisions of subsection (4) above, warranty services or repairs shall be provided at all of a manufacturer's dealerships which are franchised to service the subject vehicles or engines.

(6) The vehicle or engine owner shall not be charged for diagnostic labor which leads to the determination that a warranted part is in fact defective, provided that such diagnostic work is performed at a warranty station.

(7) The vehicle or engine manufacturer shall be liable for damages to other vehicle components proximately caused by a failure under warranty of any warranted part.

(8) Throughout the vehicle or engine's warranty period defined in subsection (b)(2) or (b)(3), the vehicle or engine manufacturer shall maintain a supply of warranted parts sufficient to meet the expected demand for such parts. The lack of availability of such parts or the incompleteness of repairs within a reasonable time period, not to exceed 30 days from the time the vehicle or engine is initially presented to the warranty station for repair, shall constitute an emergency for purposes of subsection (4) above.

(9) Any replacement part may be used in the performance of any maintenance or repairs. Any replacement part designated by a manufacturer may be used in warranty repairs provided without charge to the vehicle owner. Such use shall not reduce the warranty obligations of the vehicle or engine manufacturer, except that the vehicle or engine manufacturer shall not be liable under this article for repair or replacement of any replacement part which is not a warranted part (except as provided under subsection (7) above).

(10) Any add-on or modified part exempted by the Air Resources Board from the prohibitions of Vehicle Code section 27156 may be used on a vehicle or engine. Such use, in and of itself, shall not be grounds for disallowing a warranty claim made in accordance with this article. The vehicle or engine manufacturer shall not be liable under this article to warrant failures of warranted parts caused by the use of such an add-on or modified part.

(11) The Executive Officer may request and, in such case, the vehicle or engine manufacturer shall provide, any documents which describe that manufacturer's warranty procedures or policies.

(e) Each manufacturer shall furnish with each new vehicle or engine written instructions for the maintenance and use of the vehicle or engine by the owner, which instructions shall be consistent with this article and applicable regulations in article 2 of this subchapter.

(f) Each manufacturer shall furnish with each new vehicle or engine a list of the “high-priced” warranted parts established by subsection (c).

(g) Prior to the 2001 model year, each manufacturer shall submit the documents required by subsections (c)(3), (e), and (f) with the manufacturer's preliminary application for new-vehicle or engine certification for approval by the Executive Officer. For 2001 and subsequent model years, each manufacturer shall submit the documents required by subsection 2037(c)(3), (e), and (f) with the Part 2 Application for Certification pursuant to the “California Exhaust Emission Standards and Test Procedures for 2001 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles,” incorporated by reference in subsection 1961(d). The

Board Administration and Regulatory Coordination Unit

Division 3. Air Resources Board

Chapter 1. Motor Vehicle Pollution Control Devices

Article 6. Emission Control System Warranty

Executive Officer may reject or require modification of the manufacturer's list of "high-priced" warranted parts to ensure that each such list includes all emission-related parts whose replacement cost exceeds the cost limit defined in subsection (c)(1) and also may reject or require modification of any of the documents required by subsections (e) and (f). Approval by the Executive Officer of the documents required by subsections (c), (e), and (f) shall be condition of certification. The Executive Officer shall approve or disapprove the documents required by subsections (c), (e), and (f) within 90 days of the date such documents are received from the manufacturer. Any disapproval shall be accompanied by a statement of the reasons thereof. In the event of disapproval, the manufacturer may petition the Board to review the decision of the Executive Officer.

(h) Vehicle Inspection Program.

(1) This subsection applies to 1990 and subsequent model passenger cars, light-duty trucks, and medium-duty vehicles which fail to pass a smog check test pursuant to Health and Safety Code section 44012 after a period of use of three years or 50,000 miles, but before a period of use of seven years or 70,000 miles. The provisions of this section shall be contained in the warranty statement required pursuant to section 2039.

(2) The owner of a vehicle which fails in the inspection during the period described in subsection (h)(1) may choose to have the vehicle repaired at a warranty station.

(A) If the warranty station identifies that the smog check failure was caused by the failure or malfunction of a part defined in subsection (c), then the vehicle manufacturer shall be liable for expenses involved in detecting and correcting the part failure or malfunction, unless the warranty station demonstrates that the part failure or malfunction was caused by abuse, neglect, or improper maintenance as specified in subsection (i).

(B) If the warranty station demonstrates that the smog check failure was caused by one or more conditions excluded from warranty coverage pursuant to subsection (i), the vehicle owner shall be liable for all diagnostic and repair expenses. Such expenses shall not exceed the maximum repair costs permissible under the inspection program.

(C) If the warranty station determines that the smog check failure was caused by one or more defects covered under warranty pursuant to these regulations and in combination with one or more conditions excluded from warranty coverage pursuant to subsection (i), then the vehicle owner shall not be charged for the diagnostic and repair costs related to detecting and repairing the warrantable defects.

(3) In the alternative, the owner of a vehicle which fails the smog check may choose to have the vehicle repaired at other than a warranty station. If a warrantable defect is found, the vehicle owner may deliver the vehicle to a warranty station and have the defect corrected free of charge. The vehicle manufacturer shall not be liable for any expenses incurred at a service establishment not authorized to perform warranty repairs, except in the case of an emergency as specified in subsection (d)(4). If the vehicle owner chooses to have the warrantable defect repaired at other than a warranty station, the upper cost limit pursuant to Health and Safety Code section 44017 shall not apply to the repair.

(i) Exclusions.

The repair or replacement of any warranted part otherwise eligible for warranty coverage under subsection (d) and (h), shall be excluded from such warranty coverage if the vehicle or engine manufacturer demonstrates that the vehicle or engine has been abused, neglected, or improperly maintained, and that such abuse, neglect, or improper maintenance was the direct cause of the need for the repair or replacement of the part.

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code. Reference: Sections 43106, 43204, 43205, 44004, 44010, 44011, 44012, 44015, and 44017, Health and Safety Code.

REFERENCE